

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 545 – SB 547

February 24, 2017

SUMMARY OF ORIGINAL BILL: Establishes that a breach of security of personal information by an unauthorized person includes personal information that is encrypted. Establishes exceptions to the definition of personal information. Expands the period of time an information holder, as defined in Tenn. Code Ann. § 47-18-2107, has to notify the owner or licensee of the information that there has been a breach of security by an unauthorized person by allowing a period of 45 days from the discovery or notification of the breach.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

IMPACT TO COMMERCE OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (003887): Deletes and replaces language in the original bill such that the only substantive change establishes that “breach of security” is the access of personal information by an unauthorized person when such person has obtained either unencrypted computerized data or encrypted computerized data and the encryption key.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Pursuant to Tenn. Code Ann. § 47-18-2107(f), any owner or licensee of personal information that is aggrieved as a result of a breach of security of such information may institute a civil action to recover damages and enjoin other information holders to prevent further violations under Tenn. Code Ann. § 47-18-2107.
- Pursuant to Tenn. Code Ann. § 47-18-2105(d), a violation of identity theft is punishable by a civil penalty the greater of: ten thousand dollars (\$10,000); five thousand dollars (\$5,000) per day for each day a person's identity has been assumed; or ten (10) times the amount obtained or attempted to be obtained by the person using the stolen identity.

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This civil penalty is in addition to any other penalties under the Tennessee Consumer Protection Act, or other laws, regulations or rules.

- This bill as amended may result in an increase in formal complaints; however, any such increase is estimated to be not significant.
- The Division of Consumer Affairs can handle any increase in formal complaints utilizing existing staff during normal work hours.
- Committing an unfair or deceptive practice under the *Consumer Protection Act of 1977* is a Class B misdemeanor offense.
- There will not be a sufficient number of prosecutions for state or local government to experience any significant increase in revenue or expenditures.

IMPACT TO COMMERCE WITH PROPOSED AMENDMENT:

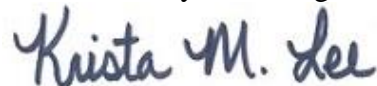
Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- This bill as amended will not significantly affect the process by which businesses in this state must notify owners or licensees of information that a breach of such information has occurred.
- This bill as amended is estimated to have no significant impact on commerce or jobs in Tennessee.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in blue ink that reads "Krista M. Lee". The signature is written in a cursive, flowing style.

Krista M. Lee, Executive Director

/jdb